

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Hannah Omolade	Team: Team # 2	CCRB Case #: 201406039	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/06/2014 , Saturday, 06/07/2014 12:32 AM	Location of Incident: § 87(2)(b)	Precinct: 46	18 Mo. SOL 12/7/2015	EO SOL 12/7/2015	
Date/Time CV Reported Wed, 06/18/2014 4:47 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 06/18/2014 4:47 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Valdrin Nikqi	07009	954177	PBBX
2. LT Seth Lynch	00000	932932	PBBX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Nadine Nazario	16704	955252	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.LT Seth Lynch	Abuse: Lt. Seth Lynch entered and searched § 87(2)(b) in the Bronx.	
B.POM Valdrin Nikqi	Discourtesy: PO Valdrin Nikqi spoke discourteously to § 87(2)(b)	
C.LT Seth Lynch	Discourtesy: Lt. Seth Lynch spoke discourteously to § 87(2)(b) and § 87(2)(b)	
D.LT Seth Lynch	Force: Lt. Seth Lynch used physical force against § 87(2)(b)	
E.LT Seth Lynch	Abuse: Lt. Seth Lynch threatened to notify Administration for Children's Services.	

Case Summary

On June 18, 2014, § 87(2)(b) filed this complaint with the CCRB via phone (encl. 4a – 4b). On June 7, 2014, at approximately 12:32 a.m., officers arrived at § 87(2)(b)'s home, located at § 87(2)(b) § 87(2)(b) and arrested her, her boyfriend, § 87(2)(b) and her § 87(2)(b)-old son, § 87(2)(b). The following allegations resulted:

- **Allegation A – Abuse of Authority: Lt. Seth Lynch entered and searched § 87(2)(b) § 87(2)(b) in the Bronx.**
- **Allegation B – Discourtesy: PO Valdrin Nikqi spoke discourteously to § 87(2)(b)**
- **Allegation C – Discourtesy: Lt. Seth Lynch spoke discourteously to § 87(2)(b) and § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation D – Force: Lt. Seth Lynch used physical force against § 87(2)(b)**
§ 87(2)(b), § 87(2)(g)
- **Allegation E – Abuse of Authority: Lt. Seth Lynch threatened to notify Administration for Children's Services.**
§ 87(2)(g)

This case was originally assigned to Investigator Sarah Milardo and on August 20, 2014, the case was reassigned to Investigator Hannah Omolade upon Investigator Milardo's resignation. This case was not eligible for mediation.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of this incident. § 87(2)(b)
- § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on June 26, 2014 (encl. 5a – 5h).

On June 7, 2014, at approximately 12:30 a.m., § 87(2)(b) and § 87(2)(b)'s § 87(2)(b)-old son, § 87(2)(b) were inside of their apartment, located at § 87(2)(b) § 87(2)(b) in the Bronx. No one was smoking marijuana in the apartment. § 87(2)(b) opened the door in the kitchen that leads to a hallway and fire escape stairwell which is commonly used a squatting area by drug users. § 87(2)(b)'s body was completely inside the kitchen and he was a couple feet from the entry way.

Suddenly, PO Valdrin Nikqi, who § 87(2)(b) identified by name, grabbed § 87(2)(b)'s arm (see enclosures for officer descriptions). She did not hear anyone state that § 87(2)(b)

was under arrest. § 87(2)(b)'s vision was obstructed, as she was further away from the door, but she heard a voice asking § 87(2)(b) to step out of the apartment two times. § 87(2)(b) observed § 87(2)(b) swing his arm upward, seemingly to shake the officer's hand off of his arm. § 87(2)(b) backed further into the apartment while § 87(2)(b) approached the door, inadvertently positioning herself between PO Nikqi and § 87(2)(b).

PO Nikqi entered the apartment. § 87(2)(b) "stopped" PO Nikqi, though she did not clarify whether this was physical or verbal, and she informed him that he had no right to enter the apartment. PO Nikqi stated to § 87(2)(b) "Shut the fuck up," and walked past her. He grabbed § 87(2)(b) a second time.

Lt. Seth Lynch, who § 87(2)(b) identified by name, instructed PO Nikqi to arrest both § 87(2)(b) and § 87(2)(b). PO Nadine Nazario, who § 87(2)(b) identified by name, entered the apartment and handcuffed § 87(2)(b) as Lt. Lynch stood in the doorway. PO Nikqi handcuffed § 87(2)(b).

§ 87(2)(b) entered the kitchen and asked what was going on. Lt. Lynch yelled at him, "What the fuck you gonna do? You feeling tough today? What the fuck you gonna do?" Lt. Lynch then entered the apartment. The officers moved § 87(2)(b) and § 87(2)(b) into the hallway outside of the apartment, so she could not see the entirety of the interaction between Lt. Lynch and § 87(2)(b). She heard a loud boom followed by crashing noises, and Lt. Lynch yelling, "You think you're fucking tough! What the fuck are you going to do?" She did not hear any officer give § 87(2)(b) lawful orders.

When § 87(2)(b) was removed from the apartment, § 87(2)(b) observed that he had redness to the back of his neck and upper arms. He had bloody abrasions on his elbow and right shoulder. § 87(2)(b) later informed § 87(2)(b) that Lt. Lynch asked him if he had a "fucking" identification and grabbed him by the back of the neck, slammed him on the floor, picked him up, then slammed him again].

Additional officers, who § 87(2)(b) could not describe, arrived at the location and entered her apartment. Neighbors came out of their apartments to see what was going on. PO Nikqi exited § 87(2)(b)'s apartment and accused her of smoking marijuana in front of her kids while holding up a black plastic bag. § 87(2)(b) denied knowing where the bag came from and denied smoking marijuana.

§ 87(2)(b) asked Lt. Lynch if she could sit by § 87(2)(b) and § 87(2)(b) and Lt. Lynch responded, "Shut the fuck up. We're going to fucking call ACS so they can take your fucking son." To § 87(2)(b)'s knowledge, ACS was never called. § 87(2)(b) and § 87(2)(b) did not yell, resist arrest, or in any way attempt to fight an officer. All three of them were arrested.

At the stationhouse, § 87(2)(b) saw PO Nikqi with a kitchen knife in an evidence bag, and heard that he had recovered a marijuana joint, but had no further information regarding the recovery of the items.

Attempts to Contact Civilians

§ 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) could only be reached on her cell phone. During the course of the investigation, § 87(2)(b) and § 87(2)(b) missed two appointments and did not respond to the three letters that were mailed to their confirmed address (for additional details pertaining to the contact attempts, see encl. 22a – 22j).

NYPD Statements:

Subject Officer: PO VALDRIN NIKQI

- *For PO Nikqi's pedigree and assignment information, see encl. 9a.*

Memo Book

PO Nikqi had extensive memo book entries pertaining to this incident (encl. 7a – 7d). They were consistent with his CCRB statement.

Arrest Reports, Complaint Report and Supporting Deposition

The arrest paperwork noted that all three individuals were arrested inside of the apartment, as § 87(2)(b) was observed smoking marijuana in plain view, § 87(2)(b) interfered with the arrest, and § 87(2)(b) reached for a knife. The supporting deposition prepared for § 87(2)(b) clarified that he was observed in the hallway of the building smoking marijuana (encl. 8a – 8r).

CCRB Statement

PO Nikqi was interviewed at the CCRB on September 24, 2014 (encl. 9a – 9e).

On June 7, 2014, at approximately 12:35 a.m., PO Nikqi, Lt. Lynch and PO Nazario were conducting a vertical patrol of a clean halls building located at § 87(2)(b) in the Bronx. Most apartments in this building have two entrances; one entrance leads to the main hallway and the secondary entrance leads to a fire escape stairwell.

The officers arrived on the second floor and PO Nikqi immediately smelled marijuana and observed § 87(2)(b) standing outside of his apartment, in the stairwell, smoking a lit marijuana cigarette. PO Nikqi informed § 87(2)(b) he was under arrest, prompting § 87(2)(b) to throw the marijuana cigarette on the ground and advance toward his apartment. Prior to entering the apartment, PO Nikqi grabbed § 87(2)(b)'s arm. They were pulling back and forth, with § 87(2)(b) leaning toward the apartment and PO Nikqi away from the apartment, when § 87(2)(b) appeared and joined in by pulling § 87(2)(b) toward the apartment. All the while, § 87(2)(b) was yelling and cursing at officers.

PO Nikqi directed § 87(2)(b) to step back, but she did not comply and instead began pushing PO Nikqi away from the apartment. As a result of the struggle, all of the officers ended up inside of the kitchen area of the apartment. Both § 87(2)(b) and § 87(2)(b) were considered to be under arrest at this point. PO Nazario and Lt. Lynch successfully handcuffed § 87(2)(b) despite her resistance.

Neither Lt. Lynch nor PO Nikqi told § 87(2)(b) to "Shut the fuck up," and PO Nikqi did not hear any officer use profanity during the incident. § 87(2)(b) and § 87(2)(b) were handcuffed and moved into the stairwell.

§ 87(2)(b) appeared in the kitchen and charged at Lt. Lynch while commanding him to leave. Lt. Lynch did not state to § 87(2)(b) "What the fuck you gonna do? Feeling tough today? What the fuck you gonna do?" or "You think you're fucking tough? What the fuck are you going to do?" As Lt. Lynch struggled to handcuff § 87(2)(b), § 87(2)(b) reached for a knife on the counter. PO Nikqi assisted Lt. Lynch in handcuffing § 87(2)(b).

PO Nikqi, Lt. Lynch and PO Nazario never left the kitchen area and did not search the apartment. § 87(2)(b) § 87(2)(b)-old son, was crying in the living room. As PO Nikqi went to get § 87(2)(b) he observed marijuana and a grinder in plain view on a table in the living room. PO Nikqi confiscated the marijuana and grinder. Lt. Lynch informed § 87(2)(b) that he would have to notify ACS if no one was able to pick § 87(2)(b) up, but § 87(2)(b) made arrangements and ACS was not contacted.

Subject Officer: LT SETH LYNCH

- *For Lt. Lynch's pedigree and assignment information, see encl. 12a.*

Memo Book

Lt. Lynch had memo book entries consistent with his CCRB statement (encl. 10a – 10c).

CCRB Statement

Lt. Lynch was interviewed at the CCRB on October 9, 2014 (encl. 12a – 12e). His statement was consistent with that of PO Nikqi's with the exceptions and salient points noted below.

Lt. Lynch may have taken a different stairwell to the second floor than PO Nikqi, so he did not see the onset of PO Nikqi's and § 87(2)(b)'s interaction. He observed the marijuana cigarette and smelled marijuana, but could not recall whether he first observed § 87(2)(b) inside or outside of the apartment. Lt. Lynch could not recall whether officers informed § 87(2)(b) that he was under arrest.

§ 87(2)(b) resisted arrest and a struggle ensued, causing all of the officers to end up inside the immediate kitchen area of the apartment. Lt. Lynch began to assist PO Nikqi in handcuffing § 87(2)(b) when § 87(2)(b) began grabbing at officers and § 87(2)(b) was screaming and seemingly attempting to break up the struggle, so Lt. Lynch and PO Nazario left § 87(2)(b) with PO Nikqi and handcuffed § 87(2)(b).

Once § 87(2)(b) and § 87(2)(b) were handcuffed, § 87(2)(b) lunged toward Lt. Lynch in a menacing stance with his hands up by his face, insinuating that he intended to strike Lt. Lynch. At one point § 87(2)(b) also grabbed for a nearby knife and threw Lt. Lynch's handcuffs on the ground. Lt. Lynch grabbed his arms, pulled them behind his back and received assistance from PO Nikqi to handcuff him. § 87(2)(b) vehemently resisted arrest.

No officer told § 87(2)(b) to "Shut the fuck up." Lt. Lynch did not state to § 87(2)(b) "What the fuck are you going to do? Are you feeling tough today? What the fuck are you going to do?"

Once everyone was secured, Lt. Lynch realized there was a § 87(2)(b)-old child in the apartment. He informed § 87(2)(b) that he would have to contact ACS if § 87(2)(b) could not find someone to care for him. Lt. Lynch did not state, "I am going to fucking call ACS to take your son away."

The officers did not conduct a search of the apartment, but PO Nikqi did inform Lt. Lynch that he found marijuana in plain view.

Witness Officer: PO NADINE NAZARIO

- *For PO Nazario's assignment and pedigree information, see encl. 15a.*

Memo Book:

At 12:32 p.m., three people were placed under arrest at § 87(2)(b) PO Nikqi took the collar (encl. 13a – 13e).

CCRB Statement:

PO Nazario was interviewed at the CCRB on October 10, 2014 (encl. 15a – 15e). Her statement was consistent with that of Lt. Lynch, unless otherwise noted.

PO Nazario could not definitively state whether she observed the onset of the interaction and whether she first observed § 87(2)(b) inside of the apartment or directly outside of the apartment. She was informed later that § 87(2)(b) had been smoking marijuana in the hallway of the building.

Lt. Lynch and PO Nikqi were struggling with § 87(2)(b) while § 87(2)(b) was holding onto the officers in what appeared to be an attempt to pull them off. PO Nazario handcuffed § 87(2)(b) and took her into the hallway.

PO Nazario did not see any occurrences involving § 87(2)(b). She did not hear an officer tell § 87(2)(b) to “Shut the fuck up,” and she did not hear Lt. Lynch threaten to contact ACS or use profanity toward any civilian.

During her CCRB statement, PO Nazario was inconsistent in describing whether the physical struggle involving § 87(2)(b) and § 87(2)(b) took place in the hallway or in the kitchen of the apartment. She then denied ever entering the apartment or kitchen at any point. PO Nazario did not conduct a search of the apartment or observe another officer do so.

NYPD Documents

- A SPRINT report was generated confirming that the Impact Lieutenant, Lt. Lynch, requested additional units while doing a vertical and had three individuals under arrest (encl. 16a – 16g).
- A bag of marijuana, a marijuana cigarette, a marijuana grinder and a brown kitchen knife were recovered from the location as arrest evidence (encl. 17a – 17f).

Other Evidence

On June 16, 2014, contact was established with the building manager of the incident location who confirmed that the location is a clean halls building and there are no surveillance cameras capturing the area in which the incident occurred (encl. 22a – 22j).

Arrest for Incident and Disposition

- § 87(2)(b) and § 87(2)(b) all had their cases adjourned in contemplation of dismissal (encl. 21a – 21p).

§ 87(2)(b)

Civilians CCRB History

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b) (encl. 3a – 3c).

Subject Officers CCRB History

- PO Nikqi has been a member of the service for one year and this is the first CCRB complaint against him (encl. 2a).
- Lt. Lynch has been a member of the service for 11 years and there is one substantiated CCRB allegations against him (encl. 1a – 1c):
 - In CCRB case number 200900106 the CCRB panel substantiated an entry and search allegation against Lt. Lynch and recommended charges. The NYPD declined to take disciplinary action.

Conclusion

Identification of Subject Officers

The entry allegation (Allegation A) has been pleaded to Lt. Lynch, as he was the supervisor on scene and also entered the apartment.

In regard to Allegations B through E, § 87(2)(b) identified each officer by name, accurately described them and attributed the respective allegations to them.

Allegations Not Pleaded

Though the preponderance of evidence suggests that § 87(2)(b) and officers were involved in a physical struggle, there were no overt mentions of force that rose to the level of misconduct. Therefore, force allegations have not been pleaded on § 87(2)(b) or § 87(2)(b)'s behalf.

§ 87(2)(b) alleged that backup up officers who she could not describe entered her apartment. Given that backup was requested to the location to aid officers in distress, the entry allegation has been subsumed under Allegation A.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Lt. Seth Lynch entered and searched § 87(2)(b) in the Bronx.

It is undisputed that officers were inside of § 87(2)(b)'s apartment at the time of this incident and that marijuana, marijuana paraphernalia and a kitchen knife were recovered from the location (encl. 17a – 17f). The manner in which the officers gained entry and whether an elaborate search occurred, remain in dispute.

§ 87(2)(b) alleged that § 87(2)(b) was fully inside of the apartment and was not smoking marijuana when PO Nikqi grabbed him and subsequently entered the apartment. She was unable to provide any insight as to where the marijuana was placed prior to the officers removing it from the apartment, and therefore, believed that the officers searched the apartment.

PO Nikqi countered that § 87(2)(b) was outside of his apartment when he was observed to be smoking marijuana and, while still outside of the apartment, PO Nikqi informed him that he was under arrest. Due to the following struggle, PO Nikqi found himself inside of the apartment inadvertently. Lt. Lynch and PO Nazario were unable to provide salient details regarding the cause of the entry, but they confirmed that an elaborate struggle occurred. All officers denied conducting a search; however, PO Nikqi did recover marijuana and marijuana paraphernalia, which was in plain view on the kitchen table.

[illegible]

Allegation B – Discourtesy: PO Valdrin Nikqi spoke discourteously to § 87(2)(b)

Allegation C – Discourtesy: Lt. Seth Lynch spoke discourteously to § 87(2)(b) and

§ 87(2)(b)

§ 87(2)(b) alleged that PO Nikqi told her to “Shut the fuck up.” She also alleged that Lt. Lynch stated to § 87(2)(b) “What the fuck you gonna do? You feeling tough today? What the fuck you gonna do?” and “You think you’re fucking tough! What the fuck are you going to do?” Furthermore, § 87(2)(b) alleged that when Lt. Lynch was threatening to contact ACS, he used derivatives of the word “fuck” three times. § 87(2)(b) was informed by § 87(2)(b) that Lt. Lynch asked for his “fucking” identification, though she did not hear this firsthand. § 87(2)(b) and § 87(2)(b) were uncooperative with the investigation.

All officers interviewed denied the aforementioned allegations or using any discourteous language during the course of the interaction. There was no independent evidence to corroborate or disprove the allegations.

§ 87(2)(b), § 87(2)(g)

Allegation D – Force: Lt. Seth Lynch used physical force against § 87(2)(b)

While in the hallway outside of the apartment, § 87(2)(b) heard booming and crashing, what she believed to be was indicative of a physical struggle between § 87(2)(b) and Lt. Lynch. When she observed § 87(2)(b) minutes later, he had visible abrasions and redness to his body. § 87(2)(b) was uncooperative with the investigation.

Lt. Lynch confirmed that a struggle occurred between him and § 87(2)(b) as § 87(2)(b) charged at him and attempted to pull a knife on him, but only acknowledged pulling on his arms to handcuff him. No other officer was inside of the apartment at the time of the struggle.

§ 87(2)(b), § 87(2)(g)

Allegation E – Abuse of Authority: Lt. Seth Lynch threatened to notify Administration for Children's Services.

It is undisputed that marijuana and a knife were recovered from the home as arrest evidence and that all parties, aside from § 87(2)(b) s § 87(2)(b)-old child, § 87(2)(b) § 87(2)(b) were arrested for the possession of marijuana.

§ 87(2)(b) alleged that Lt. Lynch threatened to contact ACS. Though Lt. Lynch denied making a threat, he acknowledged informing § 87(2)(b) that since all adult parties were being arrested, § 87(2)(b) would have to find someone to care for her child or he would be removed to ACS. PO Nikqi and PO Nazario denied hearing this conversation.

§ 87(2)(b), § 87(2)(g)

Team: 2

Investigator: _____ Hannah Omolade _____
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date